

REMARKS

Summary of Office Action

Applicants' claims 1-3 are currently pending in the above-identified patent application.

The Examiner provisionally rejected Applicants' claims under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of United States Patent 6,010,247 (hereinafter "the '247 patent").

Summary of Applicants' Reply

Applicants are filing concurrently with this Reply a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c). Applicants respectfully submit that the above-identified patent application is in condition for allowance.

Applicants' Reply to Rejection of the Claims

The Examiner provisionally rejected Applicants' claims under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of the '247 patent. Applicants note with appreciation the Examiner's assertion on page 3 of the current Office Action that the terminal disclaimer filed with a reply to the first Office Action dated March 2, 2005 was ineffective because the inventors are not the same.

Applicants concur with the Examiner's assertion that the previously filed terminal disclaimer was ineffective. It has come to Applicants' attention that the above-identified patent application was not assigned at the time of filing the terminal disclaimer with the reply to the first Office Action. It has also come to Applicants' attention that the last name of the inventor "Yasuhiro Mouri" on the '247 patent is spelled incorrectly and is actually the same person as the inventor "Yasuhiro Mori" listed on the above-identified patent application (a request for a certificate of correction has been filed to correct the misspelling in the '247 patent).

In order to address the aforementioned issues, Applicants filed an assignment in the U.S. Patent & Trademark Office (USPTO), which designates the same assignee as that of the '247 patent. The assignment was recorded on October 31, 2005 under Reel 016706, Frame 0581 (enclosed is a copy of the Notice of Recordation). Accordingly, the '247 patent is commonly owned with the above-identified patent application.

In light of the aforementioned, Applicants are submitting concurrently with this Reply a new terminal disclaimer in compliance with 37 C.F.R. § 1.321(c). Applicants respectfully submit that the terminal disclaimer overcomes the double patenting rejection and, therefore, requests that the double patenting rejection be withdrawn and the patent application be permitted to proceed to allowance.

Conclusion

For at least the reasons set forth above, Applicants respectfully submit that the above-identified patent application is in condition for allowance. Accordingly, reconsideration and prompt allowance of the above-identified patent application are respectfully requested.

Respectfully submitted,

Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022
212-756-2000

Dated: November 4, 2005
New York, New York

By: 

David Toma
Agent for Applicants
Reg. No. 57,380